

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WILLIAM JOSEPH WEBB, JR.,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 07-31-GMS
)	
FIRST CORRECTIONAL MEDICAL,)	JURY TRIAL REQUESTED
et al.,)	
)	
Defendants.)	

**DEFENDANT GOVERNOR RUTH ANN MINNER’S
MOTION FOR A PROTECTIVE ORDER**

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Defendant Governor Ruth Ann Minner (“Governor Minner”), by and through undersigned counsel, hereby moves this Honorable Court for a Protective Order staying discovery. In support of this Motion, Governor Minner states as follows:

1. The Complaint in this *pro se* prisoner civil rights action was filed on January 16, 2007. [D.I. 2]. The Complaint is based on allegations that Plaintiff received inadequate medical care while incarcerated at Delaware Correctional Center.

2. On July 9, 2007, an Answer to the Complaint was filed on behalf of Governor Minner. [D.I. 24].

3. On August 2, 2007, Plaintiff filed Interrogatories directed to Governor Minner. [D.I. 32]. On August 9, 2007, he filed a Request for Production. [D.I. 36]. The discovery requests address a wide variety of subject matters. For example, Plaintiff seeks information regarding Governor Minner’s personal financial status. He also requests production of documents pertaining to the Department of Correction’s budget and pertaining to prior lawsuits

against Governor Minner.

4. Contemporaneously herewith, Governor Minner has filed a Motion to Dismiss, with an accompanying Memorandum of Points and Authorities, on the grounds that Plaintiff has failed to state a claim upon which relief may be granted. [D.I. _].

5. Governor Minner hereby requests that the Court stay discovery in this matter pending a ruling on her Motion to Dismiss.

6. In support of her Motion to Dismiss, Governor Minner argues that Plaintiff has failed to sufficiently allege that she was deliberately indifferent to his serious medical needs. That is, Governor Minner asserts that there are no factual allegations in the Complaint in support of Plaintiff's conclusion that she was aware of his medical circumstances. Governor Minner further argues that Plaintiff has failed to present any allegations showing that she was personally involved with or had personal knowledge of his medical condition and treatment. Governor Minner has moved for dismissal of all claims, with prejudice.

7. Rule 26(c) allows for a protective order precluding any type of discovery "for good cause shown." The court "may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense . . ." In deciding whether good cause exists to issue a protective order, the court must balance the harm to the party seeking the protective order against the importance of disclosure to the public. *Wiggins v. Burge*, 173 F.R.D. 226, 229 (N.D. Ill. 1997). *See also Pansy v. Burough of Stroudsburg*, 23 F.3d 772, 787-89 (3d Cir. 1994). The court may grant a protective order where it concludes that the discovery sought is wholly irrelevant to the issues or prospective relief. *Leighr v. Beverly Enterprises-Kansas Inc.*, 164 F.R.D. 550, 551 - 52 (D. Kan. 1996).

8. Plaintiff's discovery requests, and any responses by Governor Minner, have no relevance to a determination of Governor Minner's Motion to Dismiss, which is directed solely to the allegations set forth in the Complaint and whether Plaintiff has stated a claim upon which relief may be granted. As set forth herein, Governor Minner argues that Plaintiff has failed to present factual allegations that she had knowledge of his medical circumstances. Extraneous matters presented in the discovery requests have no relevance to a determination of the issues presented in Governor Minner's Motion to Dismiss. In these circumstances, requiring Governor Minner to respond to Plaintiff's discovery would be both oppressive and unduly burdensome. Thus, a Protective Order is warranted.

9. Therefore, Governor Minner requests that this Honorable Court order that she is not required to respond to Plaintiff's outstanding discovery until thirty days after a decision on her Motion to Dismiss is rendered.

WHEREFORE, Defendant Governor Ruth Ann Minner respectfully requests that this Honorable Court grant her Motion for a Protective Order.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Eileen Kelly
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Governor Ruth Ann Minner

Dated: August 23, 2007

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WILLIAM JOSEPH WEBB, JR.,)	
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7.1.1 CERTIFICATE OF COUNSEL

Undersigned counsel hereby certifies, pursuant to Local Rule 7.1.1, that:

1. Plaintiff William Joseph Webb, Jr. is currently incarcerated and it is not practical for undersigned counsel to communicate with him concerning Defendant Governor Ruth Ann Minner's Motion for a Protective Order.
2. Therefore, undersigned counsel assumes that the Motion is opposed by Plaintiff.
3. Patrick G. Rock, Esquire, counsel for the Medical Defendants, Correctional Medical Services, Gina Wolken and Dr. Niaz, advised that the Medical Defendants to not oppose Governor Minner's Motion.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Eileen Kelly

Eileen Kelly, I.D. No. 2884

Deputy Attorney General

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Attorney for Defendant

Governor Ruth Ann Minner

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ORDER

This _____ day of _____, 2007, this Court having considered Defendant Governor Ruth Ann Minner's Motion for a Protective Order and any response thereto,

IT IS HEREBY ORDERED, that

1. Defendant Governor Ruth Ann Minner's Motion is GRANTED; and
2. Defendant Governor Ruth Ann Minner is not required to provide responses to Plaintiff's Interrogatories and Request for Production until thirty days after the Court renders a decision on her Motion to Dismiss, and only in the event that the Motion to Dismiss is denied.

United State District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2007, I electronically filed *Defendant Governor Ruth Ann Minner's Motion for a Protective Order* with the Clerk of Court using CM/ECF which will send notification to Megan T. Mantzavinos, Esquire and Patrick G. Rock, Esquire. I hereby certify that on August 23, 2007, I have mailed by United States Postal Service, the document to the following non-registered party: William Joseph Webb, Jr.

/s/ Eileen Kelly
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